

Sex and Violent Offender Registration Responsibilities and Other Duties

Overview

Sex or Violent Offender Registration

Local law enforcement authority means the (1) chief of police of a consolidated city (i.e., the Indianapolis Metropolitan Police Department); or (2) the sheriff of a county that does not contain a consolidated city (i.e., the sheriff in all counties in Indiana except Marion County).

Register means to report in person to a local law enforcement authority and provide the information required under Indiana Code (IC) 11-8-8-8.

Sex or Violent Offenders are required to register with the local law enforcement authority in each Indiana county where the offender lives, owns real property, works, or attends school.

The Indiana Sex and Violent Offender Registry

The Indiana Sex and Violent Offender Registry website established under IC 36-2-13-5.5 and maintained by the Indiana Department of Correction must contain the name of each sex or violent offender who is or has been required to register under IC 11-8-8. Thus, once an offender's name is added to the Indiana Sex and Violent Offender Registry it will remain on the site indefinitely.

Sex or Violent Offender Defined

A sex or violent offender means a person described in one or more of the following categories regardless of when the offense and conviction/adjudication occurred:

Adults or Juveniles Convicted as Adults

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification, including performing sexual conduct in the presence of a minor (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9) *unless*:
 - A. The person is convicted of sexual misconduct with a minor as a Class C felony; **and**
 - B. The person is not more than four (4) years older than the victim if the offense was committed after June 30, 2007; **and**
 - C. The sentencing court finds that the person should not be required to register as a sex or violent offender.
 - D. Items A, B, and C only apply to offenders who have committed and are convicted of this offense on or after July 1, 2007.
- (9) Incest (IC 35-46-1-3).
- (10) Sexual battery (IC 35-42-4-8).
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, *and the person who kidnapped the victim is not the victim's parent or guardian*. The italicized text only applies to offenders who have committed and are convicted of this offense on or after July 1, 2007.
- (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, *and the person who confined or removed the victim is not the victim's parent or guardian*. The italicized text only applies to offenders who have committed and are convicted of this offense on or after July 1, 2007.
- (13) Possession of child pornography (IC 35-42-4-4(c)).
- (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.
- (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.
- (16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).
- (17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less than eighteen (18) years of age.
- (18) Murder (IC 35-42-1-1).
- (19) Voluntary manslaughter (IC 35-42-1-3).
- (20) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (19).

Adjudicated Delinquents

The term sex or violent offender includes a child who has committed a delinquent act and who:

1. is at least fourteen (14) years of age;
2. is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in "Adults or Juveniles Convicted as Adults" if committed by an adult; **and**
3. is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in "Adults or Juveniles Convicted as Adults".

Out-of-State Offenders

The term sex or violent offenders includes offenders who are required to register as a sex or violent offender in any jurisdiction **or** offenders that have committed a crime under the laws of another jurisdiction, including a military court that is substantially equivalent to any of the offenses listed under "Adults or Juveniles Convicted as Adults".

Sex Offender Defined

A sex offender means a person convicted of any of the offenses under "Sex or Violent Offender Defined", except items (18) and (19) under "Adults or Juveniles Convicted as Adults" (i.e., Murder and Voluntary Manslaughter). A person is a sex offender if they have been convicted of one of these offenses regardless of when the offense and conviction/adjudication occurred.

Sexually Violent Predator Defined

As a part of the Registration required under IC 11-8-8, an offender who commits an offense described in:

(1)

(A) Rape (IC 35-42-4-1),
(B) Criminal Deviate Conduct (IC 35-42-4-2),
(C) Child Molesting (IC 35-42-4-3) as a Class A or Class B felony,
(D) Vicarious Sexual Gratification (IC 35-42-4-5(a)(1)),
(E) Vicarious Sexual Gratification (IC 35-42-4-5(a)(2)),
(F) Vicarious Sexual Gratification (IC 35-42-4-5(a)(3)),
(G) Vicarious Sexual Gratification (IC 35-42-4-5(b)(1)) as a Class A or Class B felony,
(H) Vicarious Sexual Gratification (IC 35-42-4-5(b)(2)), or
(I) Vicarious Sexual Gratification (IC 35-42-4-5(b)(3)) as a Class A or Class B felony;
(J) an attempt or conspiracy to commit a crime listed in clauses (A) through (I);
(K) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (J); **or**
Note: Section 1 only applies to offenders at least eighteen (18) years of age.

(2)

commits a sex offense (as defined in IC 11-8-8-5.2) while having a previous unrelated conviction for a sex offense for which the person is required to register as a sex or violent offender under IC 11-8-8; **or**

(3)

commits a sex offense (as defined in IC 11-8-8-5.2) while having had a previous unrelated adjudication as a delinquent child for an act that would be a sex offense if committed by an adult, if, after considering expert testimony, a court finds by clear and convincing evidence that the person is likely to commit an additional sex offense; **or**

(4)

commits a sex offense (as defined in IC 11-8-8-5.2) while having had a previous unrelated adjudication as a delinquent child for an act that would be a sex offense if committed by an adult, if the person was required to register as a sex or violent offender under IC 11-8-8-5(b)(2); **or**

(5)

is found by a court to suffer from a mental abnormality or personality disorder that makes the individual likely to repeatedly commit a sex offense as defined in IC 11-8-8-5.2 **is a sexually violent predator**.

A person is a sexually violent predator by operation of law if an offense committed by the person satisfies the conditions set forth in subdivision (1) or (2) and the person was released from incarceration, secure detention, or probation for the offense after June 30, 1994.

Length of Registration

As a part of the Registration required under IC 11-8-8, sex or violent offenders who have been:

- identified as sexually violent predators;
- convicted of at least 1 offense that the sex or violent offender committed when he/she was at least 18 years of age and against a victim who was less than 12 years of age at the time of the crime; or
- committed an offense that proximately caused serious bodily injury or death to the victim, used force or the threat of force against the victim or a member of the victim's family, or rendered the victim unconscious or otherwise incapable of giving voluntary consent

is required to register for life.

All other offenders are required to register until the **expiration of 10 years** after the date the sex or violent offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;
- (2) is placed in a community transition program;
- (3) is placed in a community corrections program;
- (4) is placed on parole; or
- (5) is placed on probation;

for the sex or violent offense requiring registration, whichever occurs last. The registration period is tolled during any period that the sex or violent offender is incarcerated.

Note:

- (1) A person who is required to register as a sex or violent offender in any jurisdiction shall register for the period required by the other jurisdiction or the period described in this section, whichever is longer.
- (2) The language appearing above "for the sex or violent offense requiring registration..." was added as the result of PL 119 and will only apply to those offenders who are convicted and/or released for a registerable offense after June 30, 2008.

Offender Requirements

Required Registration Information

The registration required under IC 11-8-8 must include the following information:

- (1) The sex or violent offender's full name, alias, any name by which the sex or violent offender was previously known, date of birth, sex, race, height, weight, hair color, eye color, any scars, marks, or tattoos, Social Security number, driver's license number or state identification card number, vehicle description and vehicle plate number for any vehicle the sex or violent offender owns or operates on a regular basis, principal residence address, other address where the sex or violent offender spends more than seven (7) nights in a fourteen (14) day period, and mailing address, if different from the sex or violent offender's principal residence address.
- (2) A description of the offense for which the sex or violent offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.
- (3) The name and address of each of the sex or violent offender's employers in Indiana and the name and address of each campus or location where the sex or violent offender is enrolled in school.
- (4) A recent photograph of the sex or violent offender.
- (5) Any electronic mail address, instant messaging username, electronic chat room username, or social networking web site username that the sex or violent offender uses or intends to use.
- (6) Any other information required by the department.

If a sex or violent offender who is on probation, parole, or under court supervision registers any electronic mail address, instant messaging username, electronic chat room username, or social networking web site username that the sex or violent offender uses or intends to use, the offender authorizes the:

- (1) search of the sex or violent offender's personal computer or device with Internet capability, at any time; and
- (2) installation on the sex or violent offender's personal computer or device with Internet capability, at the sex or violent offender's expense, of hardware or software to monitor the sex or violent offender's Internet usage.

Registration Requirements

Sex or violent offenders that have been released from the Indiana Department of Correction, sentenced directly to community supervision (e.g., probation, community corrections, etc.), or have relocated from another jurisdiction and are identified as sexually violent predators will report in person and register with the local law enforcement authority in the counties where he/she intends to live or owns real property within **72 hours of arrival**. If an offender identified as sexually violent predator plans to work or attend school, he/she must register in person with the appropriate local law enforcement authorities within **72 hours of arrival in these locations** as well.

A sexually violent predator shall (1) report in person to the local law enforcement authority, (2) register, and (3) be photographed by the local law enforcement authority in each location where the offender is required to register **every 90 days**. If an offender works or attends school, the offender shall provide documentation to the local law enforcement authority providing evidence that the offender is working or attending school at the registered location.

Sex or violent offenders that have been released from the Indiana Department of Correction, sentenced directly to community supervision (e.g., probation, community corrections, etc.), or have relocated from another jurisdiction and are not identified as sexually violent predators will report in person and register with the local law enforcement authority in the counties where he/she intends to live or owns real property within **7 days of arrival**. If an offender not identified as sexually violent predator plans to work or attend school, he/she must register in person with the appropriate local law enforcement authority within **72 hours of arrival in these locations** as well.

An offender not identified as a sexually violent predator shall (1) report in person to the local law enforcement authority, (2) register; and (3) be photographed by the local law enforcement authority in each location where the offender is required to register **at least once annually**. If an offender works or attends school, the offender shall provide documentation to the local law enforcement authority providing evidence that the offender is working or attending school at the registered location.

If a sex or violent offender (regardless if the offender is a predator or not) moves his/her principal residence, where real property is owned, work address, or school attended while registered with a local law enforcement authority, the offender is required to register these changes with the local law enforcement authority he/she is currently registered with **not more than 72 hours after the change**. After changing principal residence, where real property is owned, work address, or school attended, the offender **must register in person within 72 hours** with the local law enforcement authority in the new counties in which he/she is required to register. If an offender works or attends school, the offender shall provide documentation to the local law enforcement authority providing evidence that the offender is working or attending school at the registered location.

If a sex or violent offender who is required to register under IC 11-8-8 changes or obtains a new electronic mail address, instant messaging username, electronic chat room username, or social networking web site username, the sex or violent offender shall report in person to the local law enforcement authority having jurisdiction over the sex or violent offender's current principal address or location and shall provide the local law enforcement authority with the new address or username **not more than seventy-two (72) hours after the change or creation of the address or username**.

Sex or violent offenders are required to respond to address verification mailings and will receive periodic visits from local registration officials. If an offender fails to return a signed address verification form either by mail or in person, not later than 14 days after mailing, or appears not to reside at the listed address, the local law enforcement authority shall immediately notify the Indiana Department of Correction and the county's prosecuting attorney.

Note:

- (1) Principal residence means the residence where a sex or violent offender spends the most time. The term includes a residence owned or leased by another person if the offender does not own or lease a residence or spends more time at the residence owned or leased by the other person than at the residence owned or leased by the offender.
- (2) The legislative body of a county may adopt an ordinance requiring the local law enforcement authority to collect an annual sex or violent offender registration fee and a sex or violent offender address change fee. If an ordinance is adopted, the annual sex or violent offender registration fee may not exceed fifty dollars and the address change fee may not exceed five dollars per address change.

Name Changes

A sex or violent offender who is required to register may not petition for a change of name under IC 34-28-2. If an offender who is required to register changes names due to marriage, the offender must register with the local law enforcement authorities the offender is currently registered with not more than 7 days after the name change.

Sexually Violent Predator Monitoring

As a part of the Registration required under IC 11-8-8, sexually violent predators who will be **absent from the sexually violent predator's principal residence for more than 72 hours** shall inform the local law enforcement authority in the principal residence county, in person, of the following:

- (1) That the sexually violent predator will be absent from the sexually violent predator's principal residence for more

than 72 hours.

(2) The location where the sexually violent predator will be located during the absence from the sexually violent predator's principal residence.

(3) The length of time the sexually violent predator will be absent from the sexually violent predator's principal residence.

A sexually violent predator who will **spend more than 72 hours in a county in which the sexually violent predator is not required to register** shall inform the local law enforcement authority in the county in which the sexually violent predator is not required to register, in person, of the following:

(1) That the sexually violent predator will spend more than 72 hours in the county.

(2) The location where the sexually violent predator will be located while spending time in the county.

(3) The length of time the sexually violent predator will remain in the county.

Upon request of the local law enforcement authority in the county in which the sexually violent predator is not required to register, the sexually violent predator shall provide the local law enforcement authority with any additional information that will assist the local law enforcement authority in determining the sexually violent predator's whereabouts during the sexually violent predator's stay in the county.

A sexually violent predator who knowingly or intentionally violates this section commits failure to notify, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section based on the person's failure to comply with any requirement imposed on a sex or violent offender under IC 11-8-8.

Temporary Residence

As a part of the Registration required under IC 11-8-8, sex or violent offenders who live in temporary residences (as defined below) are required to register in person with the local law enforcement authority where they live, own real property, work, or attend school not more than 72 hours after the offender moves into the temporary residence. **During the period in which the offender resides in a temporary residence, he/she is required to register with the appropriate local law enforcement authorities in person every 7 days.**

Temporary residence means a residence that is established to provide transitional housing for a person without another residence and in which a person is not typically permitted to reside for more than 30 days in a 60 day period.

A sex or violent offender's obligation to register in person once every seven days terminates when the offender no longer resides in the temporary residence.

Note:

(1) A sex or violent offender who does not have a principal residence or temporary residence shall report in person to the local law enforcement authority in the county where the offender resides at least once every seven days to report an address for the location where the offender will stay during the time in which the offender lacks a principal address or temporary residence. A sex or violent offender's obligation to register in person once every seven days terminates when the offender establishes a principal residence.

Sex or Violent Offender Identification

As a part of the Registration required under IC 11-8-8, a sex or violent offender who is a resident of Indiana **shall obtain and keep in the offender's possession** (1) a valid Indiana driver's license, or (2) a valid Indiana identification card (as described in IC 9-24-16). A sex or violent offender required to register in Indiana who is not a resident of Indiana shall obtain and keep in the offender's possession (1) a valid driver's license issued by the state in which the offender resides, or (2) a valid state issued identification card issued by the state in which the offender resides.

A person who knowingly or intentionally violates this section commits failure of a sex or violent offender to possess identification, a Class A misdemeanor. However, the offense is a Class D felony if the person: (1) is a sexually violent predator, or (2) has a prior unrelated conviction under this section or based on the person's failure to comply with any requirement imposed on an offender under IC 11-8-8.

Offenders Against Children

A person is an offender against children by operation of law if the person meets the conditions described in subdivision (1) or (2) at any time (see below).

"Offender against children" means a person required to register as a sex or violent offender under IC 11-8-8 who has been:

(1) found to be a sexually violent predator under IC 35-38-1-7.5 **or**

(2) convicted of one (1) or more of the following offenses:

- (A) Child molesting (IC 35-42-4-3).
- (B) Child exploitation (IC 35-42-4-4(b)).
- (C) Child solicitation (IC 35-42-4-6).
- (D) Child seduction (IC 35-42-4-7).
- (E) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age and the person is not the child's parent or guardian.
- (F) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through (E).
- (G) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (F).

Sex Offender Residency Offense (IC 35-42-4-11)

"Reside" means to spend more than three (3) nights in a residence or a particular location (if the person does not reside in a residence) during any thirty (30) day period.

An offender against children who knowingly or intentionally:

- (1) resides within one thousand (1,000) feet of:
 - (A) school property, not including property of an institution providing post-secondary education;
 - (B) a youth program center; or
 - (C) a public park; **or**
- (2) establishes a residence within one (1) mile of the residence of the victim of the offender's sex offense;

commits a sex offender residency offense, a Class D felony.

Unlawful Employment Near Children by a Sexual Predator (IC 35-42-4-10)

A sexually violent predator or an offender against children who knowingly or intentionally works for compensation or as a volunteer:

- (1) on school property;
- (2) at a youth program center; or
- (3) at a public park;

commits unlawful employment near children by a sexual predator, a Class D felony. However, the offense is a Class C felony if the person has a prior unrelated conviction based on the person's failure to comply with any requirement imposed on an offender under IC 11-8-8.

Sex Offender Internet Offense (IC 35-42-4-12)

This offense applies only to a person required to register as a sex or violent offender under IC 11-8-8 who has been:

- (1) found to be a sexually violent predator under IC 35-38-1-7.5; or
- (2) convicted of one (1) or more of the following offenses:
 - (A) Child molesting (IC 35-42-4-3).
 - (B) Child exploitation (IC 35-42-4-4(b)).
 - (C) Possession of child pornography (IC 35-42-4-4(c)).
 - (D) Vicarious sexual gratification (IC 35-42-4-5(a) or IC 35-42-4-5(b)).
 - (E) Sexual conduct in the presence of a minor (IC 35-42-4-5(c)).
 - (F) Child solicitation (IC 35-42-4-6).
 - (G) Child seduction (IC 35-42-4-7).
 - (H) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age and the person is not the child's parent or guardian.
 - (I) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through (H).
 - (J) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (H).

A person described above who knowingly or intentionally uses:

- (1) a social networking web site; or
- (2) an instant messaging or chat room program;

that the offender knows allows a person who is less than eighteen (18) years of age to access or use the web site or program commits a sex offender Internet offense, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section.

Failure to Register

As a part of the Registration required under IC 11-8-8, a sex or violent offender who knowingly or intentionally:

- (1) fails to register when required to register;
- (2) fails to register in every location where the offender is required to register;
- (3) makes a material misstatement or omission while registering as a offender;
- (4) fails to register in person as required; or
- (5) does not reside at the offender's registered address or location;

commits a Class D felony. The offense is a Class C felony if the sex or violent offender has a prior unrelated conviction for an offense under this section or based on the person's failure to comply with any requirement imposed on a sex or violent offender under this chapter or under IC 5-2-12 before its repeal.